

60,427-282  
2000P07905US01

## REMARKS

Claim 1-18 and 20-24 were pending. The Examiner rejected claims 1-18 and 20-24. However, the Examiner indicated claim 19 to have allowable subject matter. Applicant has amended claim 1 upon which claim 19 depended to incorporate the limitations of this allowable subject matter. Accordingly, amended claim 1 and its dependents, claims 2-6 and 20-22, stand in condition for allowance.

With respect to independent claim 8, the Examiner rejected this claim under §102(b) in view of *Fischer, et al.* (U.S. Patent No. 5,748,748). The Examiner explains that, "Fischer discloses changing an undesirable oscillation (i.e. one mode of noise attenuation) into a desirable oscillation (i.e. another mode of noise attenuation) as a function of the operating condition of the vehicle, which reads on 'selecting one of said at least two modes of noise attenuation signal generation based on said engine data'." [Final Office Action (01/11/2006), p.8]. Applicant respectfully disagrees that this discloses two modes of noise attenuation. Rather, there is only one mode of noise attenuation disclosed. As specifically stated in claim 8, there is required, "at least two modes of noise attenuation signal generation by control unit." *Fischer, et al.* discloses only one mode of signal generation, i.e., the changing of an undesirable oscillation to a desirable oscillation. This change is affected by a signal mode of noise attenuation, not by two different modes of noise attenuation. The Examiner mistakenly counts the noise to be changed by the single mode of noise attenuation signal generation as a mode when it is in fact the sound affected by the mode. Therefore, claim 8 and its dependents, claim 9-12, stand in condition for allowance.

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With respect to claim 13, for the same reason stated above, claim 13 is also in condition for allowance. *Fischer, et al.* does not disclose two modes of noise attenuation signal generation. Accordingly, claim 13 and its dependents, claims 14-17, stand in condition for allowance. Accordingly, Applicant requests claims 1-6, 8-17 and 20-22 be allowed.

Respectfully submitted,

CARLSON, GASKEY & OLDS

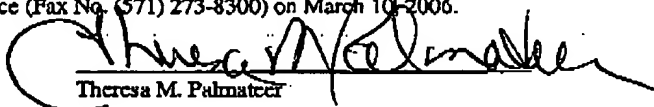
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**CERTIFICATE OF FACSIMILE**

I hereby certify that this Response, relative to Application Serial No. 09/901,237 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on March 10, 2006.

  
Theresa M. Palmateer

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